



(513) 345-5791

February 16, 1998

John Barkett, Esq.
Coll Davidson Carter Smith Salter & Barkett, P.A.
3200 Miami Center
201 South Biscayne Boulevard
Miami, Florida

In re: Skinner Landfill ADR Allocation Questionnaire

Dear Mr. Barkett:

Now comes Dick Clarke, by and through counsel, and hereby responds to the Skinner Landfill ADR Allocation Questionnaire. Initially, the plaintiffs have named six Clarke defendants, including Clarke Container, Clarke Sanitary Landfill, Dick Clarke Trash Removal and Demolition, Clarke's Complete Collection, Clarke's Incinerators, Inc., and Clarke Services, Inc. Dick Clarke's response to the questionnaire will be limited to Clarke Services, Inc., Dick Clarke Company, and Clarke, Inc. Clarke Services, Inc. was incorporated in 1967. Clarke Services, Inc. did not haul hazardous materials and/or municipal solid waste. In February, 1980 Dick Clarke purchased Clarke Services, Inc. Thereafter, Clarke Services, Inc. was sold to Browning-Ferris Industries of Ohio, Inc. on or about March 1, 1984, at which time Dick Clarke executed a noncompete agreement with Browning-Ferris Industries of Ohio, Inc. In the late 1980s, Dick Clarke, as a sole proprietor, transported nonhazardous materials, including trees, shrubs, farm fencing and barn demolition debris. On or about July 26, 1990, Dick Clarke incorporated Clarke, Inc. Dick Clarke Trash Removal and Demolition is not, and never was, more than an advertisement on a sign placed on Cincinnati Dayton Road, Union Township, Ohio. Finally, Dick Clarke is not, and has never been a generator and/or transporter of hazardous waste materials and/or a generator or transporter of empty barrels, drums, tanks or other containers. Therefore, this response is limited to questions directed to "transporters" and "transporters of demolition debris" as well as any questions directed to "all participants."

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 2

RESPONSE TO SKINNER LANDFILL ADR ALLOCATION QUESTIONNAIRE

Questions Directed to Transporters

6. Conduct a "full and thorough" investigation as defined above of your transportation activities for customers within 75 miles of the Site and answer the following questions based on your investigation and review of the materials in the nexus packages previously sent to you.

- a. Identify each period, by months and/or years, in which you know or have reason to believe you, either directly or indirectly, delivered or arranged for delivery of (hereinafter "transported") material to the Site

RESPONSE: Clarke Services, Inc. did not haul hazardous materials and/or municipal solid waste. Further, Clarke Services, Inc. did not haul any material to the Site in that, among other things, the Site was a competitor.

Dick Clarke Company did little, if any, transporting until the late 1980s. In order to comply with the noncompetition agreement executed with Browning-Ferris Industries of Ohio, Inc., Dick Clarke transported a minimal amount of trees, shrubs, barn demolition debris and farm fencing. Records of the Dick Clarke Company indicate that 152 loads were delivered to the site, 102 loads in 1988 and 50 loads in 1989. Dick Clarke Company did not haul hazardous materials and/or municipal solid waste.

Clarke, Inc. hauled a minimal amount of demolition debris after July 26, 1990. There is no record which would indicate that Clark, Inc. delivered to the site. Clark, Inc. did not haul hazardous materials and/or municipal solid waste.

- b. For each such period, describe:
 - i. each type of material that you transported, by physical nature (e.g., solid, liquid, or sludge) and as precise a description of the chemical constituents as possible

RESPONSE: Clarke Services, Inc. did not transport waste to the Site.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 3

Dick Clarke Company hauled a minimal amount of trees, shrubs, barn demolition debris and fencing during the late 1980s. Dick Clarke Company did not transport hazardous materials, municipal solid waste, liquids, sludge or chemicals.

Clarke, Inc. did not haul hazardous materials, municipal solid waste, liquids, sludge or chemicals. Rather, Clarke, Inc. hauled trees, shrubs and nonhazardous demolition debris.

- ii. for each type of material, the total amount (weight or volume) of material transported to the Site

RESPONSE: Clarke Services, Inc. did not haul to the Site.

Dick Clarke Company hauled a minimal amount of trees, shrubs, farm demolition and/or farm fencing to the Site, totaling 152 loads between 1988 and 1989.

- iii. whether a predecessor or successor entity transported the material during the time period and, if so, the identity of that entity

RESPONSE: Clarke Services, Inc. was sold to Browning-Ferris Industries of Ohio, Inc. by Assignment and Bill of Sale on or about the 1st day of March, 1984; a copy of the Assignment and Bill of Sale is attached hereto. Respondent cannot, in good faith, state whether Browning-Ferris Industries of Ohio, Inc. delivered material to the Site.

7. For each period identified in response to question #6, identify each and every customer whose material you know or have reason to believe you transported to the Site. For each such customer, provide separately:

RESPONSE: Clarke Services, Inc. did not transport to the Site. As previously indicated, Dick Clarke Company transported approximately 152 loads to the Site. However, it is impossible to determine which loads were taken from what customers to the Site in that material was transported to landfills other than Skinner. There is no record that Clarke, Inc. delivered to the Site.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 4

- a. the name and address of the customer, including situations where the customer was a municipality, each known person or entity within the municipality from which material was transported

RESPONSE: Clarke Services, Inc.: N/A.

Dick Clarke Company: It is impossible to determine the identity of the customer makeup of the 152 loads delivered to the site. However, the Dick Clark Company did not service a municipality and did not transport hazardous materials and/or municipal solid wastes.

Clark, Inc.: N/A.

- b. a description of the material transported, by type, physical nature, and as precise a description of the chemical constituents as possible

RESPONSE: Clark Services, Inc.: N/A.

Dick Clarke Company hauled a minimal amount of trees, shrubs, barn demolition, debris and farm fencing.

Clark, Inc.: N/A.

- c. the total amount (weight or volume) of material transported

RESPONSE: Clark Services, Inc.: N/A.

Dick Clarke Company transported approximately 152 loads to the Site.

Clark, Inc.: N/A.

- d. the form in which the material was picked up or removed (e.g., containers, bulk, sludge, drums, etc.)

RESPONSE: Clark Services, Inc.: N/A.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 5

Dick Clarke Company picked up material in roll off containers only.

Clark, Inc.: N/A.

- e. the price charged by your for each unit (e.g., drum, gallon, cubic yard, ton, pound, etc.) of material transported

RESPONSE: Clark Services, Inc.: N/A.

The Dick Clarke Company charged between \$150.00 and \$200.00 per load depending on, among other things, the distance hauled and whether there was a delivery charge (\$45.00).

Clark, Inc.: N/A.

- f. the source(s) of the information for your responses to questions #6 and 7

RESPONSE: Clark Services, Inc.: N/A.

Dick Clarke Company accessed its records and information from its employees, including Dick Clarke.

Clark, Inc.: N/A.

8. Identify all employees, former employees, and brokers or agents reasonably likely to have knowledge of:

RESPONSE: Clarke Services, Inc., the Dick Clarke Company, and Clark, Inc. did not use brokers or agents to transport any material.

- a. the location of, or other information regarding, the facilities of one or more of your customers from which material was transported to the Site

RESPONSE: Clarke Services, Inc.: N/A.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 6

The employees of the Dick Clarke Company who may have information regarding the facilities of one or more of your customers from which material was transported to the Site include: Dick Clarke, Richard Clarke II, and Charlie Lee. Again, there is no specific record which would indicate the identity of customers from which material was transported to the Site.

Clarke, Inc.: N/A.

- b. your material collection and transportation routes within 75 miles of the Site during the relevant period

RESPONSE: The following are former employees of Clarke Services, Inc.: Dick Clarke, Richard Clarke II, Charlie Lee, Ray Banks, Roger Jones (deceased), Ben Millard, Rick Chesney, Tom Jones, David Holt, Darrell Ray, Anthony Gullett, Dervin Spears, David Palmer, Mark Wilmlink, Sonny Banks (deceased), Paul Gabbard, Burt Cowan, Arthur Durbin, Mike Timulty, Pete Sampson, Noble Rose, Rose Adams, and Kathy Probse. However, Clarke Services, Inc. did not transport to the Site.

The following are former employees of the Dick Clarke Company: Dick Clarke, Richard Clarke II, Charlie Lee, Kenny Asher, and Marlene St. John. Again, Dick Clarke Company did not haul hazardous materials and/or solid municipal waste. Dick Clark Company may have hauled a minimal amount of trees, shrubs, barn demolition debris and/or farm fencing to the site; however, no records are available.

Clarke, Inc. currently employs Dick Clarke and Charlie Lee. It is believed that Ken Asher, Richard Clarke II, and Marlene St. John were also employed by Clarke, Inc. in 1990.

- c. the transportation by you of materials to the Site

RESPONSE: Clarke Services, Inc.: N/A.

The following are former employees of the Dick Clarke Company: Dick Clarke, Richard Clarke II, Charlie Lee, Kenny Asher, and Marlene St. John. Again, Dick Clarke Company did not haul hazardous materials and/or solid municipal waste. Dick Clark Company may have hauled a minimal amount of trees, shrubs, barn demolition debris and/or farm fencing to the site; however, no records are available.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 7

Clarke, Inc.: N/A.

9. Identify all employees, former employees, and brokers or agents who were responsible during the relevant time period for
- a. soliciting new business for you within 75 miles of the Site

RESPONSE: Clarke Services, Inc.: Dick Clarke, Ray Banks, Roger Jones (deceased), and Ben Millard.

Dick Clarke Company: Dick Clarke.

Clarke, Inc.: Dick Clarke.

- b. directing drivers employed by you where to pick up, collect, transport, or dispose of material within 75 miles of the Site.

RESPONSE: Clarke Services, Inc.: Dick Clarke and Charlie Lee.

Dick Clark Company: Dick Clarke and Charlie Lee.

Clarke, Inc.: Dick Clarke and Charlie Lee.

10. Provide copies of any and all documents reflecting, referring, or relating in any way to the Site or transport of materials to the Site, including, but not limited to:

- a. all correspondence, invoices, and agreements and/or contracts between you and the Skinners or you and any of your customers regarding transport or proposed transport of material to the Site, and

RESPONSE: Clarke, Services, Inc.: N/A.

Dick Clark Company: See attached.

Clark, Inc.: N/A.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 8

- b. all other documents relating to transport of materials to, or disposal of materials at, the Site, including, but not limited to, manifests, load or unload slips, and billing and payment records

RESPONSE: Clarke, Services, Inc.: N/A.

Dick Clark Company: See attached.

Clark, Inc.: N/A.

11. Provide copies of all other documents reflecting, referring, or relating in any way to any other matter involving your use or proposed use of the Site.

RESPONSE: See attached.

Questions Directed to Generators and Transporters of Demolition Debris

21. If the materials in the nexus packages previously sent to you indicate, or if you otherwise know or have reason to believe, that you generated, transported, or arranged for the transport of demolition debris that was sent directly or indirectly to the Site, provide the following information in addition to that provided in response to the questions directed to generators, transporters, municipalities, and/or the U.S. Department of Defense and U.S. Army:

- a. identify as precisely as possible the source(s) and physical and chemical nature of the demolition debris

RESPONSE: Clarke Services, Inc.: N/A.

Dick Clarke Company: Trees, shrubs, barn demolition, farm fencing, branches, stumps, metal and brick.

Clark, Inc.: N/A.

- b. identify as precisely as possible the time period that demolition debris was or may have been sent directly or indirectly to the Site

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 9

RESPONSE: Clarke Services, Inc.: N/A.

Dick Clarke Company: The Dick Clarke Company delivered 152 loads to the site between 1988 and 1989 per the attached records.

Clarke, Inc.: N/A.

- c. identify whether any efforts were made to segregate materials originally included in the debris so that certain materials were not sent offsite, and, if so, identify what those materials were and state the basis for your response

RESPONSE: Clarke Services, Inc.: Dick Clarke would not bid jobs with any hazardous waste, municipal solid waste, barrels, drums, liquids of any kind, including water, asbestos, paint, tires, refrigerators, air conditioners, dehumidifiers, batteries, and/or sludge. Dick Clarke would inspect jobs prior to bidding/transporting.

Dick Clarke Company: Dick Clarke would not bid jobs with any hazardous waste, municipal solid waste, barrels, drums, liquids of any kind, including water, asbestos, paint, tires, refrigerators, air conditioners, dehumidifiers, batteries, and/or sludge. Dick Clarke would inspect jobs prior to bidding/transporting.

Clarke, Inc.: Dick Clarke would not bid jobs with any hazardous waste, municipal solid waste, barrels, drums, liquids of any kind, including water, asbestos, paint, tires, refrigerators, air conditioners, dehumidifiers, batteries, and/or sludge. Dick Clarke would inspect jobs prior to bidding/transporting.

- d. identify whether you have any basis to believe that the demolition debris would have completely excluded (1) asbestos-containing materials, (2) insulation, (3) metal piping, tanks, or containers, (4) painted wallboard, (5) asphalt, (6) concrete, (7) paint or paint thinner, and (8) waste oil. If so, state the basis for your response for each such item.

RESPONSE: Clarke Services, Inc.: N/A.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 10

Dick Clarke Company: Dick Clarke would not bid jobs with any hazardous waste, municipal solid waste, barrels, drums, liquids of any kind, including water, asbestos, paint, tires, refrigerators, air conditioners, dehumidifiers, batteries, and/or sludge. Dick Clarke would inspect jobs prior to bidding/transporting.

Clarke, Inc.: Dick Clarke would not bid jobs with any hazardous waste, municipal solid waste, barrels, drums, liquids of any kind, including water, asbestos, paint, tires, refrigerators, air conditioners, dehumidifiers, batteries, and/or sludge. Dick Clarke would inspect jobs prior to bidding/transporting.

- e. if the demolition debris contained tanks or containers of any sort, identify as precisely as possible
 - i. the number and capacity of each type of tank and container

RESPONSE:

Clarke Services, Inc.: N/A.

Dick Clarke Company: N/A.

Clarke, Inc.: N/A.

- ii. the nature and chemical composition of all the materials which the tanks or containers were used to hold

RESPONSE:

Clarke Services, Inc.: N/A.

Dick Clarke Company: N/A.

Clarke, Inc.: N/A.

- iii. any efforts to ensure that those tanks and containers were entirely empty before they were transported to the Site

RESPONSE:

Clarke Services, Inc.: N/A.

Dick Clarke Company: N/A.

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 11

Clarke, Inc.: N/A.

- f. the source(s) of the information for your response to question #2(a)-(e)

RESPONSE: The sources of information used to formulate responses to questions numbers 21(a)-(e) encompass the investigation made in order to respond to the entire questionnaire, including a search for records and information obtained from Dick Clarke, Charlie Lee and Richard Clarke II.

Questions Directed to all Participants

27. Explain the steps taken to perform a full and thorough investigation of the questions set forth above. Identify:

RESPONSE: Dick Clarke has made a thorough search for any and all documents, memos, correspondence or other information related to transportation of any type of debris to the Site. Dick Clarke has talked with current and accessible former employees to identify available information regarding the identity of former employees, customers and prices for transportation of debris. Dick Clarke has also obtained available corporate documents relating to referenced entities from his previous attorneys.

- a. all persons interviewed who have relevant information who were consulted in the preparation of answers to these questions;

RESPONSE: Dick Clarke, Richard Clarke II, and Charlie Lee.

- b. all persons, who, based on your investigations, may have relevant information but who were not interviewed and the reason why no interview was conducted; and

RESPONSE: Persons, who, based on investigations, may have relevant information and were not interviewed would include former employees and/or customers. Interviews were not conducted of said individuals in that it is impossible to know which, if any, former employees have relevant information other than to confirm the information already

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 12

provided. Likewise, it is impossible to identify customers with relevant information in that, of the 152 loads taken to the Site between 1988 and 1989 and documented by the Dick Clarke Company records, there is no information as to the origin of said loads. However, as is emphasized throughout the response to this questionnaire, Clarke Services, Inc., the Dick Clarke Company, and Clark, Inc. did not transport hazardous materials and/or municipal solid waste.

- c. all documents which may be relevant but which were not reviewed and the reason that the documents were not reviewed

RESPONSE: Dick Clarke, individually, and by and through his agents, servants and employees has made a thorough search for any and all documents which may be relevant to the issues presented.

28. If you desire to, describe any factual and legal defenses to liability that you may have.

RESPONSE: Clarke Services, Inc. did not deliver even a newspaper to the Site. The Dick Clarke Company transported 152 loads of nonhazardous and non-municipal solid waste material to the Site between 1988 and 1989. The Dick Clarke Company never transported hazardous waste, municipal solid waste, barrels, drums, liquids of any kind including water, asbestos, paint, tires, refrigerators, air conditioners, dehumidifiers, batteries and/or sludge. Further, Dick Clarke would inspect jobs prior to acceptance in order to insure that no hazardous materials were involved. Finally, there is no record that Clarke, Inc. delivered material to the Site during the relevant period.

29. If you desire to, describe any theories or ideas that you would suggest regarding the criteria for the allocation.

RESPONSE: N/A.

30. Identify any persons who did not receive this questionnaire whom you believe should be identified as persons who should be allocated some share of responsibility for response costs incurred at the Site. (Exhibit B is a list of the persons receiving this

LINDHORST & DREIDAME

John M. Barkett, Esq.
February 16, 1998
Page 13

questionnaire.) Describe as completely as possible the basis for any such belief and provide copies of all documents relevant to that position.

RESPONSE: Respondent is aware of another entity, Dick's Trash, that hauled material in and around the area of the Site. Dick's Trash is an entity not related to Dick Clarke. Respondent cannot, in good faith, state that hazardous materials were transported to the Site by agents, servants and/or employees of Dick's Trash.

31. Provide any other information which you believe is relevant to the allocation which has not been given in response to the previous questions.

RESPONSE: N/A.

32. Identify a contact person(s) who can respond to questions or provide clarification with regard to your responses.

RESPONSE: Gary F. Franke
LINDHORST & DREIDAME
312 Walnut Street, Suite 2300
Cincinnati, Ohio 45202-4091
Phone: (513) 421-6630
Fax: (513) 421-0212

Very truly yours,

LINDHORST & DREIDAME

Gary F. Franke

GFF/drl
Enclosures